

1 LAW OFFICE OF MIGUEL GALVEZ, JR. ESQ.  
2 MIGUEL GALVEZ, JR. ESQ.  
3 NEVADA BAR NO. 005960  
333 N. RANCHO DRIVE SUITE 570  
LAS VEGAS, NEVADA 89101  
(702) 636-0464

E-Filed 12/23/09

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re: ) BK-S-08-23507-lbr  
JOSEPHINA LINAREZ-PAIZ, ) Chapter 13  
Debtor(s) )  
Date: December 30 , 2009  
Time: 10:00 a.m.

**OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY**

COMES NOW, the Debtor(s) by and through their attorney, MIGUEL GALVEZ, JR. ESQ., respectfully request this court to deny the MOTION FOR RELIEF FROM THE AUTOMATIC STAY filed by WELLS FARGO BANK, N.A., by and through its attorneys, WILDE & ASSOCIATES.

## POINTS AND AUTHORITIES

11 USC Section 362 (d) (1) states that the court may terminate, modify or condition stay "for cause, including the lack of adequate protection of an interest in property of such party in interest;"

11 USC Section 362 (d) (2) the Court may terminate, modify or condition a stay  
“with respect to a stay of an act against property under subsection (a) of this  
section, if.”

- (A) the debtor does not have an equity in such property and
  - (B) such property is not necessary to an effective reorganization.

## **STATEMENT OF FACTS**

The Debtor denies that she is delinquent in her post petition mortgage payments. In October of 2009, the Debtor contacted her counsel and advised that her mortgage company had denied her September 2009 payment. Only after

1 Debtor's counsel contacted Creditor's counsel, was the Debtor able to make her  
2 September 2009. **See proof of September 2009 payment attached hereto as**  
3 **Exhibit "1".**

4 In late November of 2009, the Debtor again advised her counsel that the  
5 mortgage company was refusing payment. Again, the issue was resolved through  
6 Creditor's counsel.

7 On December 2, 2009, Debtor's counsel received a Demand Letter claiming  
8 Debtor was late for October, November and December 2009. Said letter set a  
9 December 4, 2009 deadline to respond. **See copy of demand letter attached**  
10 **hereto as Exhibit "2".** On December 4, 2009, Debtor's counsel contacted  
11 Creditor's counsel and provided October and November 2009 payment  
12 confirmation numbers. Despite this fact, Creditor proceeded to file the instant  
13 motion.

14 Any delay in Debtor's payment were a result of the mortgage companies  
15 refusal to accept payment. The fact is that the Debtor is current for October,  
16 November and December 2009. **See proof of payment attached hereto as**  
17 **Exhibit "3".** The Debtor should not be punished for her mortgage companies  
18 conduct in refusing payment. Further, the Debtor should not be forced to pay  
19 attorneys fees and costs when she provided proof to Creditor's counsel before the  
20 deadline imposed by Creditor's attorney. Creditor's instant motion was  
21 needlessly filed.

22  
23  
24 THEREFORE, Debtor requests that the motion filed be denied under 11  
25 USC Section (d)(1) or (2), and that any action on creditor's behalf be stayed for  
26 an adequate amount of time to allow the Debtor to become current on the post  
27 petition mortgage arrearages and/or Stipulate to an Order Re: Adequate

1 Protection.

2  
3 Respectfully submitted:

4 By: /s/ Miguel Galvez, Jr. Esq.  
5 Miguel Galvez, Jr. Esq.  
6 333 N. RANCHO DRIVE #570  
7 LAS VEGAS, NV 89101  
8 (702)-636-0464

9  
10 **CERTIFICATE OF MAILING OF OPPOSITION TO MOTION FOR RELIEF FROM**  
**AUTOMATIC STAY**

11 I hereby certify that on the 23<sup>rd</sup> day of December, 2009, I served via ECF and mailed a  
12 true and correct copy , first class mail, postage prepaid, to the below named the  
13 OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY:

14 Wilde & Associates  
15 Gregory L. Wilde, Esq.  
16 208 South Jones Blvd.  
17 Las Vegas, Nevada 89107  
18 bk@wildelaw.com

19 Rick A Yarnall, Trustee  
20 701 Bridger Avenue, #820  
21 Las Vegas, Nevada 89101  
22 ecf@lasvegas13.com

23 Josefina Linares-paiz  
24 899 Crazyhorse Way  
25 Las Vegas, Nevada 89110

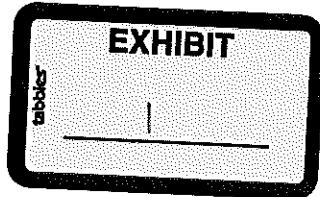
26 Attn: Officer or Agent  
27 GE Money Bank  
28 25 SE 2<sup>nd</sup> Avenue, Suite 1120  
Miami, FL 33131-1605

29 Attn: Officer or Agent  
30 Ocwen Loan Servicing  
31 P.O. Box 785063  
Orlando, FL 32878

32 /s/ Miguel GalvezJr., Esq.  
33 MIGUEL GALVEZ JR., ESQ.

10/19/09	POS PURCHASE - 99 CENT STORES 99 CENT STLAS VEGAS NV 0605		\$20.28
10/19/09	POS PURCHASE - WAL-MART #1559 WAL-MART #LAS VEGAS NV 0605		\$53.89
10/19/09	VZ WIRELESS VW E CHECK 091016 7038140 RICARDO *PINEDA		\$156.48
10/19/09	CHECK CRD PURCHASE 10/16 SPEEDPAY/INSURANCEPYMT 888-254-4608 CA 486830XXXXXX0605 291940004107091 ?MCC=6300 321270742DA01		\$192.50
10/19/09	CHECK CRD PURCHASE 10/17 MIWALL CORP #3 GRASS VALLEY CA 486830XXXXXX0605 291940003806315 ?MCC=5399 321270742DA90		\$216.15
10/19/09	MORTGAGE PAYMENT EFT 091019 1256032559 PAEZ, JOSEFINA		\$1,584.64
10/16/09	ATM WITHDRAWAL - 4215 E CHARLESTON LAS VEGAS NV 0605		\$100.00
10/15/09	WITHDRAWAL MADE IN A BRANCH/STORE		\$502.00
10/14/09	ATM WITHDRAWAL - HARRIS-NELLIS LAS VEGAS NV 0605		\$100.00
10/09/09	MONTHLY SERVICE FEE		\$8.00
10/09/09	DEPOSIT	\$4,000.00	
09/28/09	MONTHLY SERVICE FEE REVERSAL	\$8.00	
<b>Totals</b>		<b>\$4,434.00</b>	<b>\$4,417.95</b>

 Equal Housing Lender  
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Gregory Wilde \*\*  
 Ryan E. Wilde \*  
 Kevin Soderstrom  
 Mathew Schriever

# WILDE & ASSOCIATES

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 \*\*Licensed in Nevada and Utah

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 208 South Jones Boulevard  
 Las Vegas, NV 89107  
 (702) 258-8200 (Fax) 702-258-8787

December 2, 2009

Via E-Mail: [legal@galvezlaw.net](mailto:legal@galvezlaw.net)  
 Miguel Galvez, Jr.  
 333 North Rancho Drive #570  
 Las Vegas, NV 89106

RE: Wells Fargo Bank, N.A. v. Linares-Paiz  
 Notice of Default and Acceleration  
 Property Address: 899 Crazy Horse Way, Las Vegas NV 89110  
 Our File No. 08-78865  
 BK Case No: 08-23507-lbr

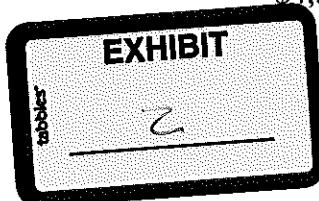
Dear Miguel Galvez, Jr.:

The purpose of this letter is to provide you with written notice, pursuant to Bankruptcy LR 4001(a)(3), that your client is in default. This communication is required pursuant to the above mentioned local rule by the U.S. Bankruptcy Court of Nevada and therefore, is in no way a violation of the automatic stay.

This letter is to advise you that our office has been retained by Wells Fargo Bank, N.A., beneficiary of the Deed of Trust, which is a lien on the subject property.

The following is a breakdown of the amount due:

2 Late Charges at \$56.06 (October 1, 2009 - November 1, 2009)	\$112.12
3 Monthly Payments at \$1,334.64 (October 1, 2009 - December 1, 2009)	\$4,003.92
Attorneys Fees	\$400.00
Total	\$4,516.04



Miguel Galvez, Jr.  
Our File No. 08-78865  
December 2, 2009  
Page Two

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Please contact our office within forty-eight (48) hours from the date of this notice, should your client wish to settle this matter prior to filing the Motion for Relief. Should our office not receive a response from you by December 4, 2009, our office will immediately proceed with a Motion for Relief.

Please contact our office if you have any questions.

Very truly yours,  
Wilde & Associates

/s/ Gregory Wilde  
Gregory Wilde, Esq.

GW/MXG  
cc: Rick A. Yarnall, via e-mail: [ecfmail@lasvegas13.com](mailto:ecfmail@lasvegas13.com)

Subj: Linares-Paiz PROOF OF PAYMENTS CLIENTS ARE CURRENT  
Date: 12/4/2009 10:12:32 A.M. Pacific Standard Time  
From: [ca1galvezlaw@aol.com](mailto:ca1galvezlaw@aol.com)  
To: [cwatkins@wildelaw.com](mailto:cwatkins@wildelaw.com)  
CC: [tbrooks@wildelaw.com](mailto:tbrooks@wildelaw.com)

Good Morning, please be advised that my clients are current. My clients provided me with the following confirmation numbers: 1065425172 in the amounts of \$ 2690.00 & 1065431107 in the amount of 1,354.74. The employees ID that took payments from my clients are Salvador (EV6) and Lisette (BC7).

Christina Galvez  
Law Offices of Miguel Galvez Jr., Esq

	3606		
12/07/09	POS PURCHASE - LOWE'S #2477 LOWE'S #24 LAS VEGAS NV 3606		\$37.81
12/07/09	CHECK CRD PURCHASE 12/03 WESTLAKE FINANCIAL SER 323-6928800 CA 491986XXXXXX3606 340940022049074 ?MCC=6012 321270742DA01		\$654.06
12/07/09	MORTGAGE PAYMENT EFT 091207 1256032559 PAEZ, JOSEFINA		\$1,354.64
12/07/09	CHECK CRD PURCHASE 12/04 KAYNE & SON CHNADLER NC 491986XXXXXX7206 340940026063653 ?MCC=5072 321270742DA01	\$21.00	
12/04/09	CHECK CRD PURCHASE 12/03 PRAXAIR DIST US #307 7026337100 NV 491986XXXXXX7206 338940010599999 ?MCC=7692 321270742DA90		\$82.57
12/04/09	CHECK CRD PURCHASE 12/03 KAYNE & SON 828-6678868 NC 491986XXXXXX7206 338940013129377 ?MCC=5072 321270742DA01		\$113.00
12/03/09	POS PURCHASE - CHECKER #798 CHECKER # LAS VEGAS NV 3606		\$20.93
12/03/09	MORTGAGE PAYMENT EFT 091203 1256032559 PAEZ, JOSEFINA		\$2,690.00
12/03/09	DEPOSIT MADE IN A BRANCH/STORE #234365736	\$1,500.00	
12/02/09	CHECK CRD PURCHASE 12/01 PANDA EXPRESS 1476 LAS VEGAS NV 491986XXXXXX7206 336940013750751 ?MCC=5814 321270742DA90		\$16.00
12/01/09	NEVADA POWER PRO NPC PYMT 022818961142503 JOSEFINA LINARES PEREZ		\$136.87
12/01/09	DEPOSIT MADE IN A BRANCH/STORE #243155656	\$3,500.00	
11/30/09	MONTHLY SERVICE FEE		\$2.50
11/30/09	POS PURCHASE - ARCO PAYPOINT ARCO PAYPOLAS VEGAS NV 3606		\$20.45
11/30/09	POS PURCHASE - CARDENAS MARKETCARDENAS MLAS VEGAS NV 3606		\$25.20
11/30/09	POS PURCHASE - WAL-MART #1559 WAL-MART # LAS VEGAS NV 3606		\$37.84
11/27/09	POS PURCHASE - CARDENAS MARKETCARDENAS MLAS VEGAS NV 3606		\$7.40
11/27/09	DEPOSIT MADE IN A BRANCH/STORE #229997261	\$500.00	
10/26/09	POS PURCHASE - WAL-MART #1559 WAL-MART # LAS VEGAS NV 3606		\$29.73
10/22/09	CHECK CRD PURCHASE 10/22 REDBOX *DVD RENTAL 866-733-2693 IL 491986XXXXXX3606 295940012056227 ?MCC=7841 321270742DA01		\$2.16
10/21/09	CHECK CRD PURCHASE 10/19 JACK IN THE BO00072074 LAS VEGAS NV 491986XXXXXX3606 294940008122256 ?MCC=5814 321270742DA90		\$8.39
10/21/09	CHECK CRD PURCHASE 10/20 NOR*NORTHERN TOOL 800-222-		\$75.97

